

N.J.S.A. 45:26-1 et seq. CRANE OPERATORS

45:26-1. Short title

This act shall be known and may be cited as the "Licensing of Crane Operators Act."

45:26-2. Definitions relative to crane operators

As used in this act:

"Board" means the Crane Operators License Advisory Board established pursuant to section 3 of this act.

"Certification" means certification from the National Commission for the Certification of Crane Operators or any other organization found by the board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies.

"Commissioner" means the Commissioner of Labor.

"Crane" means a power--operated hoisting machine used in construction, demolition or excavation work that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier and has a manufacturer-rated lifting capacity of ten tons or more. It shall not include a forklift, digger derrick truck, aircraft, bucket truck, knuckle boom, trolley boom or any vehicle or machine not having a power-operated winch and load line.

"Crane operator" means an individual engaged in the operation of a crane.

"Crane related experience" means operating, inspecting, training and maintenance experience acceptable to the board.

"Practical examination" means an examination demonstrating the applicant's ability to safely operate a particular category or type of crane. Practical examinations shall be conducted for the following crane categories: the lattice boom crawler or truck cranes, telescopic boom cranes having a capacity of less than 17.5 tons, and the telescopic boom cranes having a capacity of more than 17.5 tons.

45:26-3. Crane Operators License Advisory Board

a. There is created within the Department of Labor, a Crane Operators License Advisory Board. The board shall consist of seven members who are residents of the State, consisting of the commissioner or his designee, as the chairperson, serving ex-officio and representing the Department of Labor, a heavy highway, utility or transportation construction contractor representative, a building contractor representative and four licensed crane operators who have been actively engaged in crane related operations in this State for at least five years immediately preceding their appointment.

b. For a period of one year after the effective date of this act, and notwithstanding any other provisions of this act to the contrary, the first four crane operators appointed as members of the board shall not be required, at the time of their first appointment, to be licensed under the provisions of this act as crane operators.

c. The Governor shall appoint each board member for a term of three years, except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years and two shall serve for terms of one year. Each member shall hold office until his successor has been qualified. Any vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. No member of the board may serve more than two successive terms, in addition to any unexpired term to which he has been appointed.

45:26-4. Reimbursement, facilities, personnel of board

Members of the board shall be reimbursed for expenses and provided with office and meeting facilities and personnel required for the proper conduct of the board's business.

45:26-5. Meetings of board, elections, appointments

The board shall annually elect from among its members a vice-chairperson and may appoint a secretary, who need not be a member of the board. The board shall meet at least twice a year and may hold additional meetings as necessary to discharge its duties.

45:26-6. Powers, duties of commissioner

The commissioner shall have the following powers and duties:

- a. Administer and enforce the provisions of this act;
- b. Issue and renew licenses to crane operators pursuant to the provisions of this act;
- c. Suspend, revoke or fail to renew the license of a crane operator pursuant to the provisions of P.L. 1978, c. 73 (C. 45:1-14 et seq.);
- d. Adopt standards for certification that are consistent with applicable certification requirements of one or more established and nationally recognized crane operator certification programs recognized by the federal Occupational Safety and Health Administration;
- e. Adopt and publish a code of ethics and standards of practice for licensed crane operators;
- f. Prescribe and charge reasonable fees to support program costs associated with examinations, licenses, renewals and other services performed pursuant to this act;
- g. Create any subcommittee the commissioner deems necessary to assist in the performance of his duties; and
- h. Implement a schedule establishing penalties for violations of this act or any regulations hereunder.

45:26-7. Licensure of crane operators

- a. No person shall engage in the operation of a crane, offer himself for employment as a crane operator or otherwise act, attempt to act, present or represent himself as a crane operator unless licensed as such under the provisions of this act.
- b. A crane operator's license shall be valid only in conjunction with a current certification and only in the specialty or specialties for which the crane operator is certified. The specialties are lattice boom crawler crane, lattice boom truck crane, telescopic boom cranes with a capacity of more than 17.5 tons and telescopic boom cranes with a capacity of less than 17.5 tons.

45:26-8. Eligibility for licensure as crane operator

To be eligible for a license as a crane operator, an applicant shall fulfill the following requirements:

- a. Be at least 18 years of age;
- b. Receive certification from the National Commission for the Certification of Crane Operators or any other organization found by the board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies;
- c. Have at least 1,000 hours of crane--related experience; and
- d. Maintain a current medical examiner's certification card.

45:26-9. Application, fee, issuance of license

Upon payment to the commissioner of a fee and the submission of a completed written application provided by the commissioner, the commissioner shall issue a crane operator license to any person who meets the eligibility requirements of section 8 of this act.

45:26-10. Fees established by rule; use

- a. The commissioner shall by rule or regulation establish, prescribe or change the fees for licenses, renewals of licenses or other services provided by the commissioner or the board pursuant to the provisions of this act. Licenses shall be issued for a period of five years and may be renewed when the applicant provides proof of re--certification, except that the board may, in order to stagger the expiration dates thereof, provide that those licenses first issued or renewed after the effective date of this act shall expire or become void on the expiration date of the certification.
- b. Fees shall be established, prescribed or changed by the commissioner, in consultation with the board, to the extent necessary to defray all proper expenses incurred by the board, and any staff employed to administer this act, except

that fees shall not be fixed at a level that will raise amounts in excess of the amount estimated to support the program costs.

- c. All fees and any fines imposed by the commissioner shall be paid to the Department of Labor and shall be directly applied toward enforcement and administrative costs.

45:26-11. Refusal to grant, suspension, revocation of license

In addition to the provisions of section 8 of P.L. 1978, c. 73 (C. 45:1--21), the commissioner may refuse to grant or may suspend or revoke a crane operator's license upon proof to the satisfaction of the commissioner that the holder thereof has:

- a. Obtained a certification or license by fraud or deceit;
- b. Fraudulently or deceitfully performed work for which a license is required under this act;
- c. Committed an act of gross negligence;
- d. Falsely advertised;
- e. Acted in a manner which demonstrates incompetence; or
- f. Caused or contributed in any manner that directly or indirectly resulted in an injury to a person or damage to property.

Whenever the commissioner finds cause to refuse to grant, suspend or revoke a crane operator's license pursuant to this act or impose an administrative penalty, he shall notify the licensee of the reasons therefor, in writing, and provide opportunity for a hearing in accordance with the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.).

45:26-12. Licensed crane operator prohibited to practice as professional engineer

No person licensed as a crane operator pursuant to this act shall engage in the practice of professional engineering, unless licensed as a professional engineer.

45:26-13. Enforcement, prosecution

The commissioner shall enforce the provisions of this act, make complaints against persons violating its provisions, and prosecute violations of the same. The commissioner and any authorized person acting under him shall have the authority to enter and inspect any place or establishment covered by this act. If upon inspection the commissioner discovers a condition which exists in violation of the provisions of this act, he shall be authorized to order such violation to cease. The order shall state the items which are in violation of the provisions of the act, and shall provide a reasonable specified time within which the required action shall be taken by the person responsible. If the violation constitutes an imminent hazard and the commissioner's order is not obeyed, the commissioner may apply for an injunction in the Superior Court of New Jersey. Nothing in this act shall be deemed to prevent the commissioner from prosecuting any violation of this act, notwithstanding that the violations are corrected in accordance with his order.

45:26-14. Violations, penalties

It shall be unlawful for any person, partnership, firm association or corporation, and any officer, agent or employee thereof, to violate or proximately contribute to the violation of any of the provisions of this act or of the regulations promulgated pursuant to this act. Any violation of this act by an employee, acting within the scope of his authority, of any person, partnership, firm, association, or corporation shall be deemed also to be the violation of such person, partnership, firm, association or corporation. Violations of the provisions of this act or rules and regulations promulgated pursuant to this act shall be punishable for the first offense by a penalty of not less than \$100 nor more than \$10,000 and for a second or subsequent offense by a penalty of not less than \$500 nor more than \$100,000. The penalties shall be collected in accordance with "The Penalty Enforcement Law of 1999," P.L. 1999, c. 274 (C. 2A:58-10 et seq.). If the violation consists of refusal to obey an order of the commissioner made under this act, each day during which the violation continues shall constitute a separate and distinct offense except during the time an appeal from that order may be taken or pending.

45:26-15. Settlement of claims

The commissioner, in his discretion, is authorized and empowered to compromise and settle any claim for a penalty under this act for an amount that appears appropriate and equitable under all of the circumstances.

45:26-16. Deferral for holders of long boom licenses

Crane operators, holding long boom licenses issued by the State as of the effective date of this act, shall not be required to be licensed pursuant to the provisions of this act until the expiration of their long boom licenses issued by this State.

45:26-17. Rules, regulations

The commissioner, after consultation with the board, shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.) necessary to effectuate the purposes of this act.

N.J.A.C. 12:121-1.1 et seq.

CHAPTER 121. LICENSING OF CRANE OPERATORS

SUBCHAPTER 1. GENERAL PROVISIONS

12:121-1.1 Purpose and scope

(a) This chapter is promulgated to establish reasonable standards for:

1. The licensing of certain crane operators;
2. The establishment of a code of ethics and standards for licensing of crane operators in congruence with all Occupational Safety and Health Act standards of practice for the safe operation of cranes; and
3. Enforcement of the Licensing of Crane Operators Act.

(b) This chapter shall apply to the licensure of persons operating certain cranes, as defined in N.J.A.C. 12:121-2, that are power-operated hoisting machines used in construction, demolition, or excavation work.

(c) This chapter shall not apply to:

1. The licensure of persons operating forklifts, digger derrick trucks, aircraft, bucket trucks, knuckle booms, trolley booms, or any vehicles or machines not having a power-operated winch and load line; or
2. The military forces of the United States or its allies, or to the duly authorized militia of any state, nor to the police or fire departments of the State of New Jersey, providing the same are acting in their official capacity and in the performance of their public duties, nor to a person operating a crane under the direct supervision of a certified trainer of crane operators while on the training facility's grounds.

12:121-1.2 Adoptions by reference

The American Society of Mechanical Engineers (ASME) B30.5-2000 and its subsequent editions are hereby incorporated as a rule of safety standard for the operation of cranes.

12:121-1.3 Validity

If any section, paragraph, sentence or word of this chapter is determined to be invalid by any court of competent jurisdiction, such determination shall not affect or impair the validity of the remainder of this chapter.

SUBCHAPTER 2. DEFINITIONS

12:121-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Act" means the Licensing of Crane Operators Act, *N.J.S.A. 45:26-1 et seq.*

"Applicant" means any person seeking to obtain a New Jersey license to operate cranes as defined in this subchapter.

"Approved" means approved by the Commissioner of Labor or his or her designee.

"ASME B30.5" means the American Society of Mechanical Engineers B30.5.

"Board" means the Crane Operators License Advisory Board.

"Certification" means certification from the National Commission for the Certification of Crane Operators (NCCCO or CCO) or any other organization found by the Board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies (NCCA).

"Commissioner" means the New Jersey Commissioner of Labor and Workforce Development or his or her designee.

"Crane" means a power-operated hoisting machine that has a power-operated winch, load line and boom moving laterally by the rotation of the machine on a carrier, and having a manufacturer-rated capacity of 10 tons or more and is used in construction, demolition and excavation work. In addition, the following should apply:

1. "Lattice boom truck crane" or "LBT" means a crane consisting of a superstructure mounted on an automotive truck as its base and its means of travel.
2. "Lattice boom crawler crane" or "LBC" means a crane consisting of a superstructure mounted on a base with crawler treads as a means for travel.
3. "Small telescoping boom crane" or "TSS" means a crane, with extendable and retractable boom mounted on an automotive truck as its base and as its means of travel, and with a manufacturers load rating of less than 17.5 tons.
4. "Large telescoping boom crane" or "TLL" means a crane, with extendable and retractable boom mounted on an automotive truck as its base and as its means of travel, and with a manufacturers load rating of 17.5 tons or more.

"Crane operator" means an individual engaged in the operation of a crane.

"Department" means the New Jersey Department of Labor and Workforce Development.

"Employee" means:

1. Any person, including supervisory personnel, suffered or permitted to work by an employer; or
2. A member of either a board, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity directly performing crane work.

"Employer" means a body, board, person, corporation, partnership, proprietorship, joint venture, fund, authority, or similar entity employing, permitting or suffering another to work, or directly performing crane work. In the case of a corporation, the officers of the corporation, and any agents having the management of the corporation, shall be deemed to be the employers of the employees of the corporation for the purposes of the Act and this chapter. This term shall apply to private employers, to the State and its political subdivisions and any boards, commissions, schools, institutions, or authorities created or recognized thereby. This term also includes contractors and subcontractors or any entity providing a crane rental service.

"Inspect" means to require the production of the New Jersey Crane Operator's License and supporting credentials upon which issuance of the license is premised for purposes of review by the Commissioner or his or her designees.

"License" means a certificate issued by the Commissioner, documenting acceptance by the Commissioner, of a person as competent to operate a crane as defined by this subchapter.

"NCCA" means the National Commission for Certifying Agencies.

"NCCCO" or "CCO" means the National Commission for the Certification of Crane Operators.

"Ton" means 2,000 pounds as defined in U.S. Standard of Measurement.

SUBCHAPTER 3. CRANE OPERATORS LICENSE ADVISORY BOARD

12:121-3.1 Establishment of the Crane Operators License Advisory Board

(a) A Crane Operators License Advisory Board shall be established within the Department of Labor and Workforce Development consisting of seven members who are residents of the State of New Jersey, as follows:

1. The Commissioner or his or her designee, as the chairperson, serving ex-officio and representing the Department of Labor and Workforce Development;
2. One heavy highway, utility, or transportation construction contractor representative;
3. A building contractor representative; and
4. Four licensed crane operators who have been actively engaged in crane operations in this State for at least five years immediately preceding their appointment.
 - i. For a period of one year after the effective date of the Licensing of Crane Operators Act (April 1, 2004), and notwithstanding any other provisions to the contrary, the first four crane operators appointed as members of the

crane operators license advisory board shall not be required, at the time of their first appointment, to be licensed under the provisions of this Chapter as crane operators.

(b) The Governor shall appoint each Board member for a term of three years, except that of the members first appointed, two shall serve for terms of three years, two shall serve for terms of two years, and two shall serve for terms of one year. Each member shall hold office until his or her successor has been qualified. Any vacancy in the membership of the Board shall be filled for the unexpired term in the manner provided for the original appointment.

(c) No member of the Board may serve more than two successive terms, in addition to any unexpired term to which he or she was appointed.

12:121-3.2 Reimbursement of Board members

Members of the Board shall be reimbursed for expenses attendant to their duties and provided with office and meeting facilities and personnel required for the proper conduct of the Board's business.

12:121-3.3 Duties of the Board

(a) The Board shall advise the Commissioner in establishing, prescribing or changing the rules necessary to effectuate the purposes of the Act. It shall also:

1. Meet at least twice a year and may hold additional meetings as necessary to discharge its duties;
2. Approve and recognize the certification programs of any organization found by the Board to offer an equivalent testing and certification program meeting the requirements of the American Society of Mechanical Engineers ASME B30.5 and the National Commission of Certifying Agencies;
3. Advise the Commissioner in the establishing, prescribing or changing of fees to the extent necessary to defray all proper expenses incurred by the Board in the performance of its duties, and any staff employed to administer the Act; and
4. Annually elect from its members a vice-chairperson and may appoint a secretary, who need not be a member of the Board.

SUBCHAPTER 4. LICENSING

12:121-4.1 Scope of subchapter

This subchapter shall apply to the procedures required to obtain or to renew a license as a crane operator.

12:121-4.2 Eligibility requirements for obtaining a license

(a) The Department shall issue a license to each applicant who satisfies the requirements listed below. The applicant for a license shall:

1. Be at least 18 years of age at the time of application;
2. Maintain a current medical examiner's certificate;
3. Possess at the time of application either one of the following:
 - i. A current NCCCO certificate that meets the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies; or
 - ii. An equivalent certification found by the Board to meet the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies;
4. Have at least 1,000 hours of crane-related experience; and
5. Submit a license application completed in accordance with *N.J.A.C. 12:121-4.3* and 4.6.

(b) The Department shall issue an Apprentice/Trainee Crane Operator Permit to each applicant who satisfies the requirements listed below. The applicant for an Apprentice/Trainee Crane Operator Permit shall: be at least 18 years of age at the time of the application; submit a notarized attestation that he or she has less than 1,000 hours of crane-related experience; and submit an Apprentice/Trainee Crane Operator Permit Application completed in accordance with the provisions of *N.J.A.C. 12:121-4.3(a)*, (b)1, 2, 4 and 5, and (c) through (g).

1. The Apprentice/Trainee Operator Permit shall expire one year from the date of the application.
2. Renewals shall be applied for in the same manner as initial permit applications.
3. An application for renewal shall be submitted at least 45 days prior to the expiration date.
4. An application for a Crane Operators License shall be submitted within 30 days of receiving certification from the NCCCO or an equivalent certification found by the Board to meet requirements of the American Society of Mechanical Engineers (ASME) B30.5 and the accreditation requirement of the National Commission of Certifying Agencies.
5. The holder of an Apprentice/Trainee Permit may operate a crane only under the guidance and supervision of a holder of a current Crane Operator License for the specialty, or specialties, relating to the type of crane which is to be operated by the apprentice/trainee.
6. Each Apprentice/Trainee Crane Operator Application shall be accompanied by a fee of \$50.00.

12:121-4.3 Procedures for completing license application

(a) Each applicant for a license shall complete an application, which can be obtained from the Department of Labor and Workforce Development at:

Division of Public Safety and Occupational Safety and Health
 Office of Public Safety Compliance
 1 John Fitch Plaza, 3rd Floor
 PO Box 386
 Trenton, NJ 08625-0386

(b) Each applicant shall provide the following information to the Department of Labor and Workforce Development:

1. Name, address, date of birth, age, sex, height, weight, eye color, driver's license number, and telephone number;
 - i. Proof that the applicant is at least 18 years of age at the time of the application shall be provided with the application by submitting a notarized photocopy of one or more of the following documents:
 - (1) Photo driver's license;
 - (2) County/State identification;
 - (3) Passport; or
 - (4) Birth certificate;
2. A photocopy of his or her current medical examiner's certificate;
3. A photocopy of his or her current NCCCO certificate or an equivalent certification found by the Board to meet the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies;
4. Two recent, identical passport-size color photographs taken against a white background or backdrop with the applicant's face being not less than three quarters of an inch in width. The applicant shall not wear a hat, dark glasses or any other item which may alter or disguise the overall features of the face in the photographs;
 - i. The applicant shall legibly print his or her name on the back of both photographs submitted; and
5. The name and address of the applicant's present employer and the applicant's position with the employer.

(c) For five years prior to the date of application, each applicant shall disclose to the Department of Labor and Workforce Development and attach to the application form the following information:

1. Any previous and pending civil litigation relevant to the operation of a crane or which reflects on the applicant's lack of personal rectitude, with current status;
2. Any previous and pending criminal litigation, with current status; and
3. Any previous and pending administrative actions, with current status, pertaining to any State, Federal, local laws or regulations, or both.

(d) Each applicant is requested to provide his or her Social Security number in his or her license application to assist the Commissioner in the enforcement of the provisions of P.L. 2003, c.171, *N.J.S.A. 45:26-1 et seq.*, Professions and Occupations.

1. Each Social Security number collected shall be used as an identifier in the Commissioner's computerized recordkeeping system to aid in the processing of license applications.
2. Each Social Security number collected shall remain confidential and used solely for the purpose for which it has been requested, save in those instances contemplated under *N.J.S.A. 2A:17-56.44(e)* regarding the exchange by State licensing authorities of information with the Probation Division of the Department of Human Services pertaining to child support arrearage.

(e) The applicant shall sign and date a statement certifying that the information contained in the application is accurate, true, and complete to the best of his or her knowledge.

(f) The applicant for a crane operator's license shall submit with his or her license application the appropriate non-refundable fee in accordance with *N.J.A.C. 12:121-4.6*.

(g) Completed applications shall be submitted to:

New Jersey Department of Labor and Workforce Development
Division of Public Safety and Occupational Safety and Health
Office of Public Safety Compliance
1 John Fitch Plaza, 3rd Floor
PO Box 386
Trenton, NJ 08625-0386

12:121-4.4 License renewals

(a) Renewals shall be applied for in the same manner as initial license applications.

(b) An application for renewal shall be submitted at least 45 days prior to the expiration date of the license.

1. It is the duty and responsibility of the licensee to renew his or her license on forms prescribed by the Department of Labor and Workforce Development.
2. The filing date of the renewal application shall be deemed to be the date the envelope is postmarked, or, if hand-delivered, the date it is received and date-stamped in the Department of Labor and Workforce Development office.

(c) When the application for renewal is submitted within the required time period, the license may continue in effect until the Commissioner renders a determination regarding the renewal application. The Department shall notify the applicant in writing whether a valid extension authorization has been granted. This validation together with the expired license shall be carried upon the worker's person and be readily available for inspection by representatives of the Commissioner.

(d) The Commissioner shall renew a license if the renewal applicant has:

1. Submitted a completed application as set forth in *N.J.A.C. 12:121-4.3* within one year of the expiration date of the expired license;
2. Paid the required renewal application fee as noted in *N.J.A.C. 12:121-4.6(d)*; and
3. Paid all outstanding penalties lawfully imposed under the Act and this chapter.

(e) The Commissioner shall treat an application for renewal of a license which has expired for more than one year as an original application.

12:121-4.5 Replacement and/or duplicate licenses

(a) An altered, defaced, mutilated, lost, or stolen license may be replaced upon written request of the license holder and only after a review of the circumstances by the Commissioner.

1. Any individual who loses his or her license or has it stolen shall immediately notify the Department of that fact in writing.

(b) A written request for a replacement or duplicate license shall be notarized and shall include:

1. The name, address and date of birth of the license holder;
2. The license holder's unique identification number;
3. The circumstances surrounding the loss of the license, including when, where and how the license was altered, defaced, mutilated, lost or stolen; and
4. If possible, the altered, defaced, or mutilated license, itself.

(c) The required fee for a replacement or duplicate license in accordance with *N.J.A.C. 12:121-4.6* must be included with the notarized request.

12:121-4.6 License fees

(a) An application fee of \$250.00 for five years shall be submitted with the original (initial) application for license, completed per the requirements of *N.J.A.C. 12:121-4.3*.

(b) A renewal license application fee of \$250.00 for five years shall be submitted with the completed renewal application for license, per the requirements of *N.J.A.C. 12:121-4.4*.

1. A late fee of \$25.00 shall be assessed for failing to renew a license at least 45 days prior to its expiration date;
2. An additional late fee of \$50.00 shall be assessed if the license had expired more than 365 calendar days after the date on which the expiration occurred.

(c) The cost for a replacement or duplicate license shall be \$ 25.00.

(d) All original, renewal, replacement or duplicate license application fees shall be paid by certified check, by money order, or by such other form as the Department deems suitable, made payable to the Commissioner of Labor and Workforce Development.

(e) The Commissioner, by amendment to this section, may adjust the fees referenced in this section to support program costs.

(f) No liability shall be assumed by the Department for loss in the transmission of a license fee.

12:121-4.7 Granting of license

(a) A license shall be granted in accordance with (b) below when the individual applicant complies with the requirements of *N.J.A.C. 12:121-4.2* and 4.3.

(b) The license shall:

1. Be in writing;
2. Contain the name and address of the operator to whom it is issued;
3. Contain the license holder's unique identification number;
4. Contain the date of issuance and the date of expiration; and
5. Contain a photograph of the face of the licensee in accordance with *N.J.A.C. 12:121-4.3(b)4*.

(c) Crane operator licenses shall not be transferable.

(d) A license shall not be loaned, abandoned, or allowed to pass from the possession of the individual to whom it has been issued for use.

(e) Any license transferred shall be invalid, null and void at the time of transfer.

1. Any individual in possession of or who attempts to utilize or utilizes a license obtained by fraudulent transfer is subject to civil and criminal prosecution and any other appropriate sanction authorized under the Act.
2. Any individual who transfers or who attempts to transfer his or her license to another individual is subject to criminal prosecution and any other appropriate sanction authorized under the Act.

(f) The Department shall not be held liable for not issuing a license as a result of the failure of the application or fee to reach the Department for review and processing. Similarly, the Department shall not be liable for the loss of a license in delivery to the licensee attributable to delivery service not under the Department's control.

12:121-4.8 License duration

(a) All licenses shall be issued for a period of five years and may be renewed when the applicant provides proof of recertification by the NCCCO or any other organization found by the Board to offer an equivalent testing and certification program which meets the requirements of the American Society of Mechanical Engineers ASME B30.5 and the accreditation requirements of the National Commission for Certifying Agencies.

1. However, in order to stagger the expiration dates thereof, those licenses first issued or renewed after April 1, 2004, shall expire or become void on the expiration date of the certification.

(b) A license shall be automatically canceled on the date of its expiration. Any person performing the duties of a licensee and holding an expired license shall be subject to the penalty provisions of the Act.

(c) Any person using fraudulent means to obtain a license shall be subject to civil and criminal prosecution under the Act. Any license acquired through such means shall be invalid.

(d) In all cases where the Commissioner refuses to grant a license or to renew a license, the person shall have the right to an informal conference or formal hearing, or both, in accordance with the Administrative Procedure Act, P.L. 1968, c.410 (*N.J.S.A. 52:14B-1 et seq.*), and the Uniform Administrative Procedure Rules (*N.J.A.C. 1:1*).

(e) Crane operators holding long boom licenses issued by the State as of the effective date of the Act, April 1, 2004, shall not be required to be licensed pursuant to the Act and these rules until the expiration of said licenses.

12:121-4.9 Identification of a licensee

(a) Each individual operating a crane as defined in *N.J.A.C. 12:121-2.1* shall have his or her crane operator license available at the site of crane operation and readily available for inspection by representatives of the Commissioner of the Department of Labor and Workforce Development.

1. A crane operator's license shall be valid only in conjunction with:
 - i. A current certification from the NCCCO or an equivalent form of current certification accepted by the Board; and
 - ii. A current medical examiner's certificate.
2. A crane operator's license shall be valid only for the specialty or specialties for which the crane operator is certified on the NCCCO certificate or equivalent certificate.

(b) Tampered with, altered, or defaced licenses shall be void.

(c) Any photostatic copies, photographs, or reproductions of a license shall be invalid.

(d) Any photostatic copies, photographs, or reproductions of current NCCCO certifications, or of equivalent certifications accepted by the Board, shall also be invalid.

SUBCHAPTER 5. ACCIDENT NOTIFICATION REQUIREMENTS

12:121-5.1 Accident notification requirements

(a) All crane-related accidents resulting in injury to a person or persons or damage to property shall be reported to the Department in writing by the crane operator or by the crane operator's employer when the crane operator is unable to do so, within 24 hours of occurrence. The information provided must include:

1. The crane operator's name, complete address, the crane operator's unique identification number, and the crane operator's telephone number;
2. The location, date and time of the incident;
3. The type of crane involved in the incident;
4. The name of the employer of the crane operator with the employer's business address and telephone number;

5. The nature of injury or injuries to a person or persons with the name and address of the injured person or persons;
6. The nature of damage(s) to property with the name and address of the property owner as well as the location of the damaged property; and
7. Any other relevant information that may assist in the incident investigation.

(b) All crane-related accidents resulting in an in-patient hospitalization or death shall be immediately reported by the crane operator or in the event he or she is unable to do so, the crane operator's employer, orally by telephone and also in writing.

1. The oral report shall be made directly to the Department's 24 Hour Hotline at 800-624-1644;
2. The written accident notification shall contain the same information as identified at (a)1 through 7 above and shall be submitted to:

New Jersey Department of Labor and Workforce Development
 Division of Public Safety and Occupational Safety and Health
 Office of Public Safety Compliance
 1 John Fitch Plaza, 3rd Floor
 PO Box 386
 Trenton, NJ 08625-0386

3. To supplement the above, the written accident notification must also be faxed to the Department at 609-292-3749.

(c) If the incident involves a fatality, the area of the site directly involved shall be immediately secured by the employer until the Department has conducted a preliminary site investigation.

(d) Failure to comply with the incident notification requirements of this subchapter shall subject the violator to sanctions and/or monetary penalties specifically identified at *N.J.A.C. 12:121-7.3*.

SUBCHAPTER 6. SUSPENSION, REVOCATION OR REFUSAL TO GRANT A LICENSE

12:121-6.1 Suspension or revocation of a crane operator's license or refusal to grant a license

(a) In addition to the grounds for license revocation as set forth in *N.J.S.A. 45:1-21*, the Commissioner may refuse to grant or may suspend or revoke a crane operator's license for any good cause within the meaning and purposes of the Act or this chapter or if that individual has:

1. Obtained a certification, registration, license or authorization to sit for an examination through fraud, deception, misrepresentation or under false pretense;
2. Fraudulently or deceitfully performed work for which a license is required under this Act;
3. Engaged in gross negligence or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any individual;
4. Caused or contributed in any manner which directly or indirectly resulted in an injury to a person or damage to property;
5. Engaged in repeated acts of negligence or incompetence;
6. Engaged in professional or occupational misconduct as may be determined by the Commissioner;
7. Been convicted of, or engaged in acts constituting, any crime or offense relating adversely to the licensing activity as may be determined by the Commissioner;
8. Been debarred from public contracting pursuant to *N.J.S.A. 34:11-56.25 et seq.*;
9. Had his or her authorization, certification, or license to engage in work as a crane operator revoked or suspended by any other state, the District of Columbia or a United States commonwealth, territory or possession, agency or authority;
10. Violated or failed to comply with the provisions of P.L. 2003, c.171, *N.J.S.A. 45:26-1 et seq.*, or this chapter, as may be determined by the Commissioner;
11. Demonstrated the incapacity or incapability, for medical reasons or any other good cause, of discharging the functions of a licensee in a manner consistent with public health, safety or welfare;
12. Engaged in present or past drug or alcohol use that is likely to impair the skill and safety necessary to operate a crane, or any duties pertaining thereto;

13. Facilitated, permitted, or allowed an unlicensed individual to perform an act for which a crane operator license, registration, authorization or certification is required, or aided and abetted an unlicensed individual in performing such an act;
14. Falsely or fraudulently advertised his or her services as a crane operator;
15. Acted in a manner which demonstrates incompetence;
16. Committed or caused the commission of any violation of P.L. 2003, c.171, *N.J.S.A. 45:26-1 et seq.*, or this chapter;
17. Loaned, abandoned, or allowed his or her license to pass from his or her personal control;
18. Violated an administrative order issued by the Commissioner; or
19. Demonstrated that he or she is unfit to hold a license for any valid reason as may be determined by the Commissioner.

(b) Any person who has his or her license suspended or revoked pursuant to this section shall not perform crane operations pursuant to that Act until the Department restores such license.

(c) The Commissioner may suspend or revoke a license for violations of this chapter provided that:

1. Written or oral notice of the violations is provided to the person; and
2. The person has the right to appeal through informal conference or formal hearing, or both, in accordance with the Administrative Procedure Act, P.L. 1968, c.410 (*N.J.S.A. 52:14B-1 et seq.*) and the Uniform Administrative Procedure Rules (N.J.A.C. 1:1).

SUBCHAPTER 7. ENFORCEMENT

12:121-7.1 Violations

(a) It shall be unlawful for any person, partnership, firm, association, or corporation, and/or any officer, agent, or employee thereof, to violate or proximately contribute to the violation of any of the provisions of the Act or of the rules promulgated pursuant thereto.

(b) Each incident which occurs in violation of the Act's provisions shall constitute an additional, separate and distinct offense.

(c) It shall be unlawful for anyone to engage in the operation of a crane, offer himself or herself for employment as a crane operator or otherwise act, attempt to act, present or represent himself or herself as a crane operator unless licensed as such under the provisions of the Act.

(d) The crane operator's license shall be valid only in conjunction with a current certification and only in the specialty or specialties for which the crane operator is certified.

(e) It shall be unlawful for any employer to permit a person to engage in the operation of a crane, offer himself or herself employment as a crane operator or otherwise act, attempt to act, present or represent himself or herself as a crane operator unless licensed as such under the provisions of the Act.

(f) Any violation of this Act and regulations by an employee, acting within the scope of his or her authority, of any person, partnership, firm, association, or corporation also shall be deemed to be a violation committed by the person, partnership, firm, association, or corporation.

(g) It shall be unlawful for a crane operator or employee, acting within the scope of his or her authority, of any person, partnership, firm, association, or corporation to violate any provision of the Act and/or this chapter.

(h) It shall be a violation to loan, abandon, or allow the license to pass from the licensee's personal control.

(i) It shall be a violation for any individual to fail to comply with an order from the Commissioner pertaining to the Act and this chapter within the time specified by such order.

12:121-7.2 Orders to cease

(a) The Commissioner shall enforce the provisions of the Act, make complaints against persons violating provisions of the Act and the rules adopted thereunder, and prosecute such violations.

(b) The Commissioner, and any duly authorized representative of the Commissioner, shall have the authority to enter and inspect any place or establishment covered by the Act and inspect the licensing credentials of all crane operators. If, upon inspection, the Commissioner discovers a condition which exists in violation of the provisions of the Act or this chapter, he or she shall be authorized to order such violation to cease.

(c) Orders to cease shall:

1. State with specificity the nature of the cited violation(s) of the provisions of the Act or this chapter; and
2. Provide a reasonable, specified time within which the required remedial action shall be taken by the person responsible, if applicable.

(d) If the violation constitutes an imminent hazard and the Commissioner's order is not obeyed, the Commissioner may apply for an injunction in the Superior Court of New Jersey to compel compliance.

(e) Nothing in this Act shall prevent the Commissioner from prosecuting any violation of the Act or this chapter, notwithstanding that the violations are corrected in accordance with the Order.

12:121-7.3 Penalties

(a) Any violation of any of the provisions of the Act or of these rules promulgated pursuant thereto shall be punishable by a monetary penalty of not less than \$100.00 and not more than \$10,000 for each violation. For a second or a subsequent offense a penalty of not less than \$500.00 and not more than \$100,000 shall be imposed for each violation. Penalties shall be collected in accordance with "The Penalty Enforcement Law of 1999," P.L. 1999, c.274, *N.J.S.A. 2A:58-10 et seq.*

(b) Any violation of the Act by an officer, agent or employee may also be deemed to be a violation committed by the employer who will be penalized therefor under the terms of the Act and of this chapter.

(c) Where the violation is of a continuing nature, each day during which it continues shall constitute an additional, separate and distinct offense.

(d) The Commissioner, at his or her discretion, may compromise and settle any claim for a penalty imposed under the Act in such amount as he or she deems to be appropriate and equitable under all of the circumstances, including, but not limited to:

1. The past record of compliance with provisions of the Act by the person cited;
2. The degree of cooperation afforded to the Commissioner's representatives by the person cited in securing compliance with the provisions of the Act;
3. Whether the violation was willful in nature; and
4. Whether the violation resulted in injury or bodily harm.

SUBCHAPTER 8. HEARINGS

12:121-8.1 Hearings

(a) No penalty shall be collected pursuant to *N.J.A.C. 12:121-7.3* unless the person cited is first provided with:

1. Notification of the violation;
2. The amount of the penalty to be imposed; and
3. An opportunity to request a formal hearing.

(b) A request for a formal hearing shall be made in writing and be received by the Department within 21 calendar days following receipt of the notice of violation. The person cited may request the initiation of a settlement conference at the time that the request for a formal hearing is made.

1. If a settlement conference is requested and/or the Department determines that a settlement conference would be useful, the settlement conference shall be scheduled and conducted by the Department within a time frame specified by the Commissioner.
2. The Commissioner, in his or her discretion, is authorized and empowered to compromise and settle any claim for a penalty under the Act for any amount that appears appropriate and equitable under all of the circumstances.

(c) All hearings shall be conducted pursuant to the Administrative Procedure Act, *N.J.S.A. 52:14B-1* et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(d) If an informal settlement conference or hearing is not requested, the notice of violation shall become a final order of the Commissioner upon expiration of the 21-day period following the receipt thereof.

(e) If a settlement is not agreed upon, any request for a formal hearing shall be transmitted to the Office of Administrative Law (OAL).

(f) Payment of the penalty shall be due when a final agency determination is issued in writing or when a notification becomes a final decision because no appeal has been requested.

1. All payments shall be made payable to the Department of Labor and Workforce Development in the form of a certified check or money order, or other such form as the Department deems suitable.
2. Payments shall be submitted to:

New Jersey Department of Labor and Workforce Development
Division of Public Safety and Occupational Safety and Health
Office of Public Safety Compliance
1 John Fitch Plaza, 3rd Floor
PO Box 386
Trenton, NJ 08625-0386

(g) Upon entry of a final order, the penalty imposed may be recovered with costs in a summary proceeding commenced by the Commissioner pursuant to the "Penalty Enforcement Law of 1999," P.L. 1999, c.274 (*N.J.S.A. 2A:58-10* et seq.)

SUBCHAPTER 9. AVAILABILITY OF DOCUMENTS

12:121-9.1 Availability of documents

(a) Copies of the publications referred to in this chapter may be obtained from the following organizations:

1. The American Society of Mechanical Engineers publishes *Mobile and Locomotive Cranes*, B30.5 and addenda. This publication and its addenda are available from:

The American Society of Mechanical Engineers
22 Law Drive, Box 2900
Fairfield, New Jersey 07007

or

The American Society of Mechanical Engineers
Three Park Avenue
New York, New York 10016

2. The ASME B30.5 publication and its addenda are also available from:

The American National Standards Institute
11 West 42nd Street
New York, New York 10036

3. The NCCCO or CCO Certification information may also be obtained from:

The National Commission for the Certification of Crane Operators
2750 Prosperity Ave.
Fairfax, VA 22031-4312